

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

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████████████████████

Reg. No.: 15-003465
Issue No.: 1008
Case No.: ██████████
Hearing Date: April 09, 2015
County: MACOMB-DISTRICT 12
(MT CLEMENS)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on April 9, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly deny the Claimant's Family Independence Program (FIP) application for failure to attend the PATH program?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant applied for FIP on January 22, 2015.
2. A PATH Appointment Notice dated January 27, 2015 was sent to the Claimant requiring that she attend the PATH program on February 9, 2015. Exhibit B
3. On February 9, 2015 the Department sent the Claimant a Medical Needs Form to be completed by the Claimant's doctor and returned to the Department by February 18, 2015. The Department sent the form to the Claimant so that it could consider whether the Claimant was eligible for a deferral. The Claimant's doctor had advised the Department by letter that the Claimant was restricted due to her pregnancy from carrying her son and a car seat which prompted the Department to

send the Medical Needs form. The Claimant knew that the Department had sent her the Medical Needs Form. The form was sent to the Claimant at her correct address. Exhibit A.

4. The Claimant was at her mother's from February 13, 2015 through February 18, 2015. The Claimant stated that she never received the Medical Needs Form.
5. The Medical Needs Form was not returned by the Claimant as she was not at her home but was at her mother's home in Detroit during the time
6. The Department issued a Notice of Case Action on February 19, 2015 denying the Claimant's Application due to her failure to attend the PATH Program Orientation as assigned.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

Additionally, in this case the Claimant's FIP application was denied for failure to return a completed Medical Needs Form 54A by the February 18, 2015 due date.

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause. BEM 233A p.1

Clients requesting a deferral from PATH due to pregnancy complications must provide medical verification that indicates that they are unable to participate. An individual requesting deferral greater than 90 days for pregnancy complications is not subject to the requirements for establishing long-term incapacity later in this item. BEM 233A (January 1, 2015) p. 9

In this case the Claimant was pregnant at the time of her application and her doctor had advised the Department that she could not carry her two-year-old son and a car seat to the PATH shuttle due to her pregnancy. Thereafter, the Claimant was sent a Medical Needs Form to be completed by her doctor. The Medical Needs Form was sent to the correct address and the Claimant knew it was being sent but was not at her residence and thus did not complete the form in a timely manner. The Claimant was at her mother's and did not ask the Department to send the form to her mother's address. Although the Claimant said she never received the letter, it was sent to the correct address and the Claimant did not have problems with her mail. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case the Claimant knew the Form was coming, had no problem with her mail, and was absent from her home during the period the Medical Needs Form 54A was sent to her. Under these circumstance it is determined that the letter from the Department was received as there was no evidence contrary to the letter being received other that the Claimant's testimony which is not enough to overcome the presumption that a letter properly addressed is received.

In order to receive a deferral Department policy provides:

**Short-Term
Incapacity**

Persons with a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. BEM 230A p. 12

In order for an applicant to be deferred the Department must receive verification:

Verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs, or DHS-54E, Medical Needs - PATH, or other written statement from an M.D./D.O./P.A. Set the medical review date accordingly, but not to exceed three months. BEM 230 P. 12.

In this case it is determined based upon the evidence presented and the testimony of the parties that the Department properly denied the application due to the Claimant's failure to return the Medical Needs Form to the Department.

Noncompliance by a WEI (Work Eligible Individual) while the application is pending results in group ineligibility. .BEM 233A (May 1, 2015)

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in

accordance with Department policy when it denied the Claimant's FIP application. The Claimant may reapply at any time.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human
Services

Date Signed: **4/13/2015**

Date Mailed: **4/13/2015**

LMF / cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]